

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,)	
)	
Plaintiff,)	
)	Criminal No. 3:05 CR 781
v.)	
)	<u>O R D E R</u>
John A. Martinez, et al,)	
)	
Defendants.)	

KATZ, J.

This matter is before the Court upon the motion of Paul Rodriguez to unseal the records in U.S.D.J. Nos. 05-12, 05-14 and 05-29 (Doc. No. 127) and the application of the United States of America, pursuant to Criminal Rule of Procedure 16(d)(1), for a Protective Order.

The government does not oppose the defendant's motion for transcripts of the in-camera testimony taken in support of the initial orders authorizing the interception of wire communications as well as the in-camera testimony taken during the oral progress reports made to the Court, subject to the procedures outlined in its response. The government opposes the defendant's request for copies of the written reports that were provided to the Court in support of the oral progress reports.

The Court finds and Orders as follows:

(1) Transcripts shall be prepared of the sworn testimony taken relative to the initial applications for orders authorizing the interception of wire communications as well as the oral testimony taken during the progress reports in U.S.D.J. Nos. 05-12, 05-14 and 05-29.

(2) These transcripts shall be provided only to the government so that the government may redact from said transcripts any testimony that may relate to investigations or matters unrelated to the case at bar.

(3) The government shall provide the Court with both redacted and un-redacted versions of said transcripts. The Court will determine whether the redacted portions of the transcripts should be withheld from the defense. The Court will direct the government to disseminate to the defense the final transcripts as determined by the Court.

(4) The defendant's request for copies of the written reports that were provided to the Court in support of the oral progress reports is denied. These reports are summaries of the intercepted wire communications. Since the defendants have already been provided with copies of all of the intercepted wire communications, they have the best source of information available.

To ensure that the identities of witnesses and informants remain confidential, and to protect the privacy rights of individuals whom have not been charged but may have been mentioned during in-camera testimony, the government's Application for a Protective Order is granted. The Court Orders the following limitations on the disclosure of the transcripts of the oral testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29.

(A) Transcripts of the oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29 which are disclosed to each Defendant's counsel, must be maintained in a secure location in counsel's offices. Counsel for the Defendants may not photocopy, photograph or make any other facsimile, electronic or otherwise, of the oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29. Counsel may not remove the transcripts of the oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29 from their respective offices except to review said materials with clients in custody, or for use in court hearings. Counsel must handle said materials

in such a manner that no person shall photocopy, photograph or make any other facsimile of the oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29 or remove said materials from counsel's office or any other authorized location.

(B) Counsel for each Defendant, including representatives, agents and staff of counsel, are prohibited from providing access to the oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29 to any Defendant, representative, or agent of any Defendant or to any person that is not directly associated with the legal representation of the Defendant, except under the terms set forth in the Order.

(C) Counsel for each Defendant herein is personally responsible for ensuring that oral, in-camera, testimony taken in U.S.D.J. Nos. 05-12, 05-14 and 05-29 is not disseminated in a manner in violation of the above procedures.

IT IS SO ORDERED.

S/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE

Dated: November 9, 2005